

13.
No. 1296. Sept. Term, 1877.

IN THE
COURT OF COMMON PLEAS,

COUNTY OF PHILADELPHIA,

No. 1.

IN EQUITY.

BETWEEN

HENRY J. WILLIAMS, Executor,
etc., Complainant,

AND

THE LIBRARY COMPANY OF
PHILADELPHIA et al.

To the within-named Defendants,

You are hereby notified and required, within fourteen days after service hereof on you, exclusive of the day of such service, to cause an appearance to be entered for you in the Court of Common Pleas in and for the County of Philadelphia, No. 1, to the within Bill of Complaint of the within-named HENRY J. WILLIAMS, Executor, etc., and to observe what the Court shall direct.

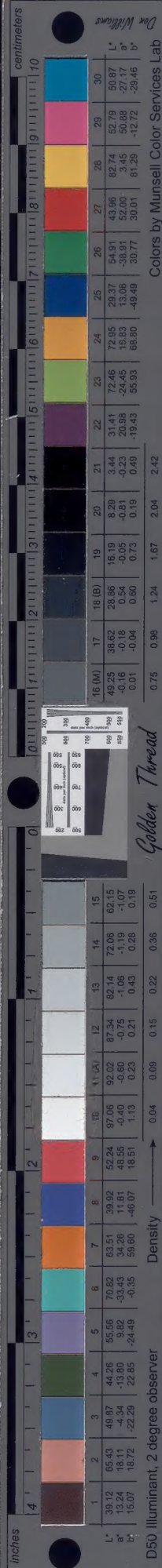
Witness our hand, at Philadelphia, this day
of one thousand eight hundred and
seventy-seven.

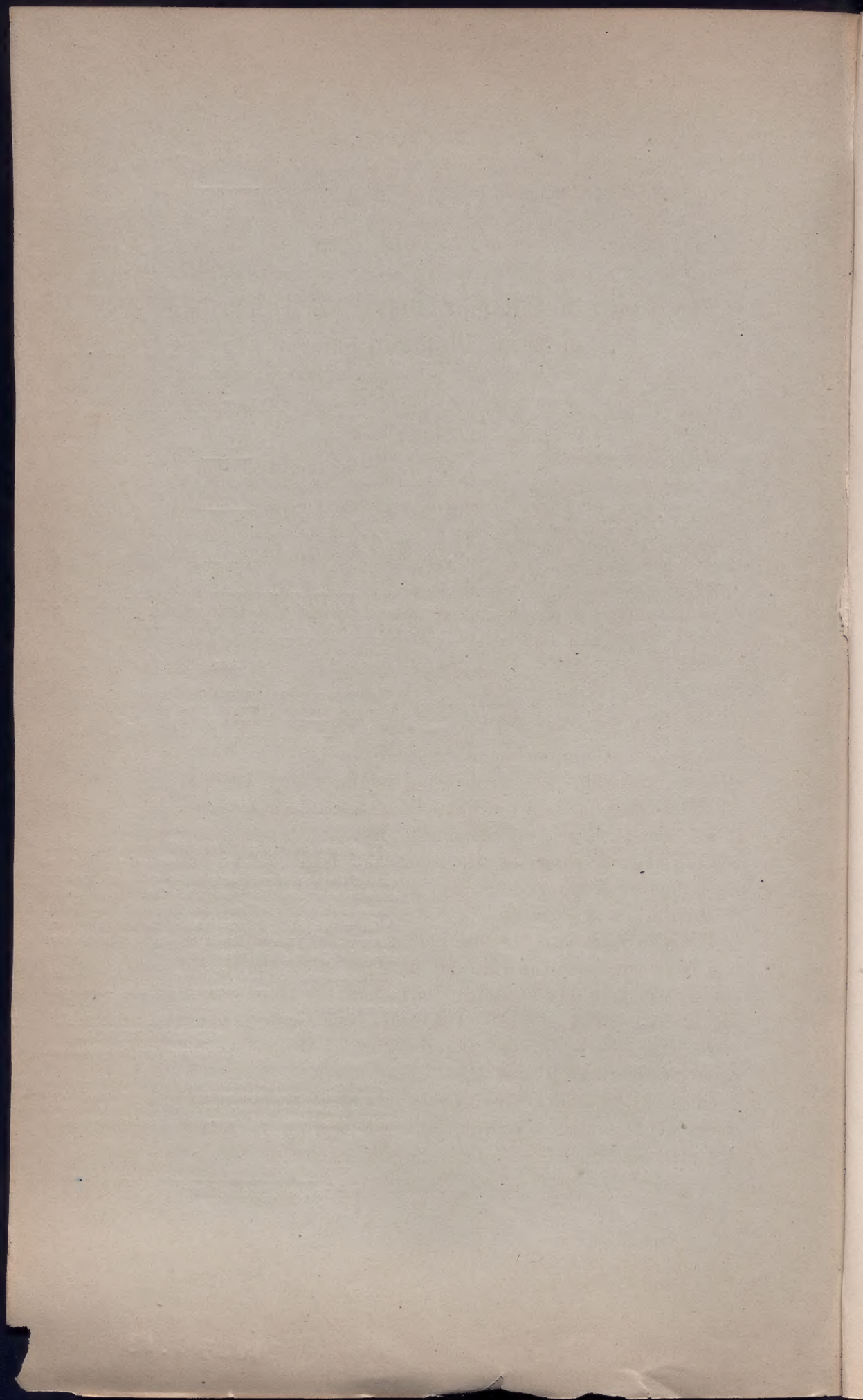
JOHN G. JOHNSON,
GEORGE JUNKIN.
Solicitors for Complainant.

NOTE.—If you fail to comply with the above directions, by not entering an appearance in the Prothonotary's Office within fourteen days, you will be liable to have the bill taken *pro confesso*, and a decree made against you in your absence.

COLLINS, Printer, 705 Jayne Street.

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In the Court of Common Pleas No. 1, for the
County of Philadelphia.

HENRY J. WILLIAMS, Executor and
Trustee of the Will of JAMES RUSH,
M.D., Complainant,

against

"THE LIBRARY COMPANY OF PHILA-
DELPHIA" and CAROLINE LITTLE
MARY RITCHIE, ANNE MARIA
RUSH, SARAH CATHERINE RUSH,
RICH'D HENRY RUSH, and JULIA
W. BIDDLE and ALEXANDER BID-
DLE, Respondents.

September Term,

1877.

No. 1296.

In Equity.

To the Honorable the Judges of said Court.

Your orator complains and says:—

1. James Rush, M.D., died in the month of May, 1869, at Philadelphia, where he was domiciled, seized and possessed of a large estate, real and personal. He left a last will and codicils thereto, copies of which, marked Exhibit "A," are hereto annexed, which it is prayed may be taken as a part of this bill.

The will bears date the 26th day of February, 1860. The first codicil is dated the 16th day of May, 1866; the second codicil the 18th day of April, 1867; and the third codicil the 12th day of April, 1869. All said testamentary papers were duly proven before the Register of Wills for this county on the 31st day of May, 1869.

On said last named day, letters testamentary upon said estate were granted to complainant, who thereupon entered upon the discharge of his duties as such executor.

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2. By said will it was, *inter alia*, provided:—

“I will and direct that all my just debts, which will be
“found very few in number and insignificant in amount,
“shall be paid by my executor as soon as possible.

“It is my intention, by a codicil or codicils to this my
“will, to give considerable legacies, annuities, and devises
“to different persons, but as I desire to take some time
“for reflection on this subject, and as I have made up my
“mind as to the disposition of my residuary estate after the
“payment of these legacies, annuities, and devises; now,
“therefore, I do hereby give, bequeath, and devise my whole
“estate, real and personal, legal and equitable, whatsoever
“and wheresoever the same may be, unto my brother-in-law,
“HENRY J. WILLIAMS, of the city of Philadelphia, his heirs
“and assigns, to be held by him for and upon the following
“trusts and purposes, and for and upon no other use, trust,
“or purpose whatever—that is to say:—

“In trust, after paying, providing for, and complying with
“all legacies, annuities, gifts, bequests, and devises, declara-
“tions, and intentions which may be contained and ex-
“pressed in any codicil or codicils to this my last will and
“testament, which I may hereafter make (to be signed by
“me at the end thereof), whether the same be formally
“drawn or not; to have and to hold the whole residue and
“remainder of my estate, real and personal, whatsoever and
“wheresoever the same may be, for the following uses and
“purposes, viz:—

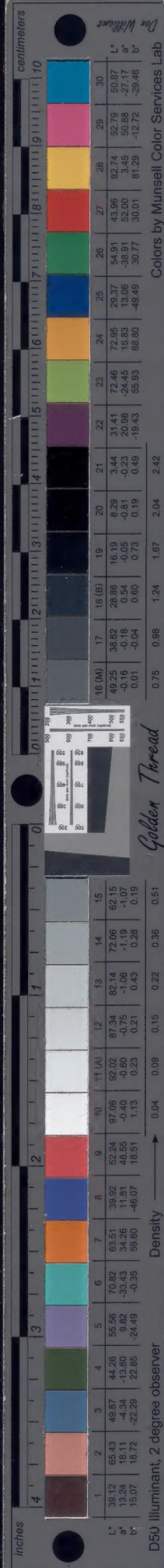
“In trust, to select and purchase a lot of ground not less
“than one hundred and fifty feet square, situate between
“Fourth and Fifteenth and Spruce and Race Streets, in the
“city of Philadelphia, and thereon to erect a fire-proof
“building sufficiently large to accommodate and contain all
“the books of the Library Company of Philadelphia (whose
“library is now at the corner of Fifth and Library Street),
“and to provide for its future extension according to plans,
“directions, and specifications which I shall hereafter make
“or give; but if I should not make or leave any such plans,

"directions, or specifications, then to erect the same according to his best judgment and to the views which I have expressed to him. It is my wish that this building should be exceedingly substantial, completely fire-proof, without any large, lofty, or merely ornamental halls or lecture-rooms; the whole interior to be divided in such a way as to contain the greatest number of books, to be well lighted, and so arranged as to be of easy and convenient access.

"AND UPON THIS FURTHER TRUST, so soon as this building is completed and ready for occupation, then in trust to convey the same, with the lot of ground whereon it is erected, unto 'The Library Company of Philadelphia' aforesaid, and their successors, for the uses and purposes of their library, and for no other use or purpose whatever.

"*Provided*, however, that before any such conveyance shall be made to the said Library Company, they shall, either by an alteration in their charter, or in some other way satisfactory to my executor, bind themselves and their successors to conform to and comply with the following express conditions, and any others I may hereafter impose, under which they are to hold the said property and all other bequests and devises herein or hereafter given to them:—

"*First*. That the said Library Company shall not cause, allow, or permit any lectures, public orations, or oral addresses or exhibitions of any kind to be delivered, given, or to take place on the said lot of ground, or in the said building; nor shall they cause, allow, or permit the formation of any museum, cabinet, gallery, or collection of natural history, statuary, sculpture, portraits, or paintings thereon or therein, nor shall they use, apply, or expend any funds, derived from me, or under my will or any codicil thereto, in procuring or defraying the expenses of any such lectures or exhibitions, public orations, or oral addresses, or in the establishment or support of or for additions to any such museum, cabinet, gallery or collection,



"painting, or portraits (and especially that of the testator)
 "on the said lot and in the said building or elsewhere.

"These are objects foreign to and inconsistent with the
 "legitimate purposes of a public library, and it is only for
 "the preservation, extension, and free and convenient use of
 "such a library, without any ambitious or pretentious display,
 "that it is desired to make provision.

"*Second.* That all the accounts of the receipts and expenditures
 "from the estates aforesaid, real and personal, shall be kept
 "separate and distinct from all other accounts of the said Library
 "Company, and shall all be headed and kept as the accounts of
 "'THE RIDGWAY BRANCH OF THE LIBRARY COMPANY OF PHILADELPHIA,"
 "so that it may be always easily and certainly ascertained whether
 "the application of those estates and the income derived therefrom
 "has been in accordance with the provisions of this my will.

"And I further will, direct, bequeath, and devise that whenever
 "the said building shall have been completed and transferred to
 "the said Library Company, and the preliminary conditions complied
 "with, then my said executor shall assign, transfer, and convey,
 "by one or more deeds and instruments, all the rest and remainder
 "of my residuary estate not laid out and expended in the purchase
 "of the lot and the construction of the building aforesaid, and in
 "the legal and customary charges and expenses, unto the Library
 "Company, to be held and used by them and their successors for
 "the following uses, trusts, and purposes:—

"*First.* In trust to keep the whole of the real estate granted
 "and conveyed to them by my executor, in good order and repair,
 "and to make from time to time such additions to the library
 "building as may be found necessary for the extension and preservation
 "and convenient use of the said library and all additions thereto.

"*Second.* In trust, after paying all necessary taxes, charges,
 "and expenses incident to the said property, to set aside annually
 "ten per cent. of the clear net income, to form a contingent fund,
 "to be invested, and the interest

"added to the principal, which fund, or so much thereof as
"may be required, shall be applied:—

"First. To build upon, improve, alter, and renew any
"lands and tenements hereby devised to the said Company,
"so as to increase the income derived therefrom.

"Second. To make good and replace any losses from the
"failure of any investments made of or from the property
"hereby bequeathed for the said Company; and,

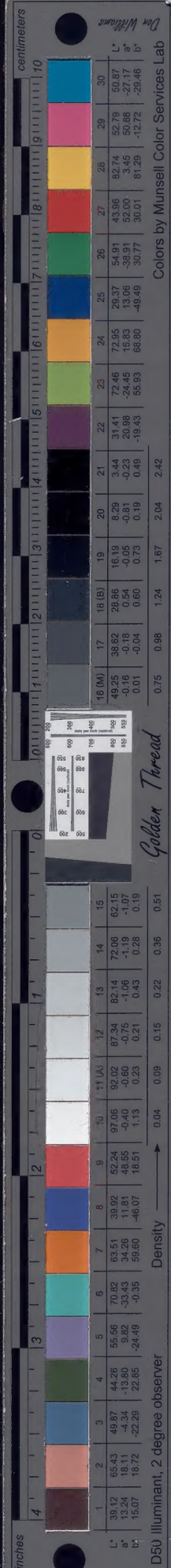
"Third. Whenever the said contingent fund shall amount
"to \$30,000, then to pay over and apply the whole surplus
"beyond the said \$30,000 for the general purposes to which
"the income of this residuary estate is herein directed to be
"applied.

"*Third.* In trust to pay all necessary salaries of the
"librarian and his assistants, and the expenses of binding
"and preserving the books of the whole library, making
"cheap catalogues, and all charges incident to its care and
"management. The said library is to be kept open from
"nine o'clock A. M. until at or near sunset, except on Sun-
"days and holidays.

"*Fourth.* And in trust, after complying with and fulfill-
"ing the previous trusts, and purposes hereinbefore con-
"tained and expressed, to apply the remainder or surplus
"of the said net annual income, or so much thereof as may
"be necessary or desirable, to the increase and extension of
"the said library.

"But I direct that no portion of my real estate aforesaid
"shall be sold by the Library Company for ten years after
"my death, nor then, unless it be absolutely necessary for
"the purposes of this trust, even if additional income should
"be derived therefrom; and in no case, unless the said sales
"are sanctioned by a decree of the Orphans' Court or a
"court of equity, which shall decide such sales are not in
"contravention of the spirit of this my will.

"And in order to enable my executor to carry out the
"directions of this my will, I hereby authorize and empower
"him to grant, bargain, and sell any part or parts of my



“real estate, at public or private sale, for any price or consideration, with any restrictions, reservations, covenants, or conditions, for cash or on credit, taking security on the premises for the balance of the purchase-moneys; or to let on ground-rent, mortgage, exchange, or make partition of the same, or any part or parts thereof; and to seal, execute, and deliver all deeds, conveyances, mortgages, assurances, or other instruments, necessary for the purposes aforesaid, without any obligation on the purchaser or purchasers to see to or be responsible for the application of the purchase-money or other consideration, or for the propriety of the exercise of this power.

“And I further will, devise, and direct that all investments, if any should be made by my executor, and all those which may at any time hereafter be made by the said Library Company from the principal or income of my said estate shall be in ground-rents or other real estate in the State of Pennsylvania, or in bonds and mortgages upon property within the said State, or in loans of the said State, or of the United States; and lastly, I hereby appoint my brother-in-law, Henry J. Williams, of the city of Philadelphia, executor of this my last will and testament.”

By the first codicil it was, *inter alia*, provided:—

“Whereas, By my said last will and testament, I have provided that the bequests and devises to the Library Company of Philadelphia are to be held under the conditions and restrictions therein contained, and any others which I might thereafter impose; now, therefore, in accordance with, and in execution of that provision, I add and impose the following conditions, restrictions, and directions:—

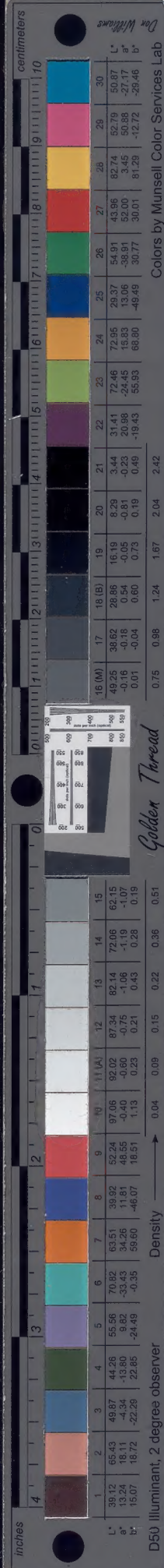
“*First.* One of my objects in giving my residuary estate for the use of the said Library Company was to express my respect and regard for my father-in-law, the late Jacob Ridgway, and my affection for and gratitude to his daughter, Phoebe Anne Rush, by erecting to their memo-

"ries a monument which I hope will prove more durable
 "than any other grateful record I could make, and be in-
 "finitely more useful to the community. As it was from
 "them I derived the greater part of my property, which
 "(under the special and prudent management of faithful and
 "trustworthy agents) has enabled me to devote happily, and
 "undisturbed, the latter part of my life to pursuits of scien-
 "tific inquiry, which I have designed to be more beneficial
 "than the more common enjoyment of an ample fortune, it
 "is both just and proper that I should thus employ it, the
 "more especially as Mrs. Rush had led me to believe that,
 "if she had survived me, she would have applied it to a
 "similar purpose. Now, in order to carry out this intention
 "in a public and permanent form, I direct my executor to
 "have a marble slab, with the following inscription on a
 "plain ground, with a border of simple moulding, without
 "any surrounding ornaments, placed and maintained on
 "some appropriate part of one of the interior rooms of the
 "new library building, in which my private library and
 "other personal effects are to be preserved:—

THE RIDGWAY BRANCH
 OF THE
 PHILADELPHIA LIBRARY.
 A MONUMENT TO THE MEMORY OF
 JACOB RIDGWAY
 AND OF HIS DAUGHTER
 MRS. PHEBE ANNE RUSH.

"*Second.* I direct my executor to have inserted in the act
 "of Assembly, which will be required to carry out the pro-
 "visions of my will and codicils, clauses enacting—

"*First.* That not more than one fourth of the directors of
 "the library shall belong to any one of the three learned
 "professions, of law, theology, or medicine. This clause is
 "however, not intended to exclude any of the present mem-
 "bers from re-election.



"Second. That the number of shares in the library shall
 "be limited to those actually issued at the time of my death.
 "But the managers, by their by-laws, shall have the au-
 "thority to allow any respectable person, depositing an
 "amount and paying an annual sum to be fixed by the
 "Board of Managers, to have the full and free use of the
 "library, as completely as if they were shareholders.

"Third. That the library shall not connect themselves
 "with any other body, corporate or politic; my residuary
 "estate will form a large fund for the use of the library,
 "and I wish them to be free from every inducement to go
 "beyond what I consider the legitimate objects of a library
 "company.

"*Third.* I will add that my reasons for choosing the
 "Philadelphia Library Company for my residuary legatee
 "and devisee are because it has always been conducted
 "quietly and unobtrusively, steadily pursuing the appro-
 "priate objects for which such libraries were established,
 "keeping entirely aloof from the excitement of politics and
 "of other means whereby public bodies so frequently seek
 "to obtain an evanescent and mischievous notoriety, and
 "because during my early life I derived great pleasure and
 "advantage from the use of its books, and from the readi-
 "ness and civility with which they were always furnished
 "me.

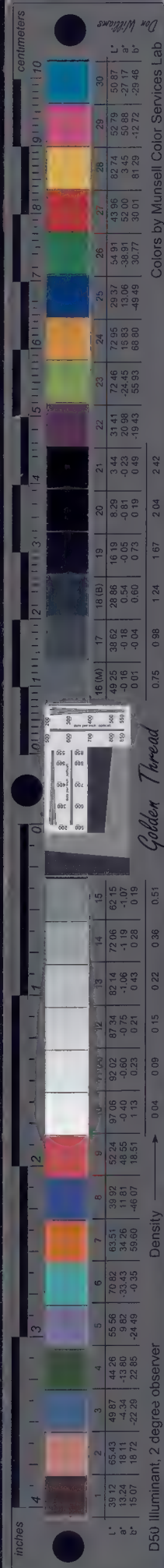
"*Fourth.* I understand that the Managers of the Library
 "Company have never applied any of its funds to defray
 "the expenses of the very simple refreshments of which
 "they are accustomed to partake at the monthly meetings
 "of the board, but have invariably paid them from their
 "own personal means. I highly approve of this course,
 "which I fear is not very usual, and in order that their
 "example may be followed by their successors, I direct
 "that no part of the funds of the Ridgway Branch of the
 "Philadelphia Library shall ever be used or expended in
 "providing refreshments, lunches (so called), feasts, or enter-

"tainments for managers, visitors, shareholders, or for any other persons whatever.

"*Fifth.* I do not wish that any work should be excluded from the library on account of its difference from the ordinary or conventional opinions on the subjects of science, government, theology, morals, or medicine, provided it contains neither ribaldry nor indecency. Temperate, sincere, and intelligent inquiry and discussion are only to be dreaded by the advocates of error. The truth need not fear them, nor do I wish the Ridgway Branch of the Philadelphia Library to be encumbered with the ephemeral biographies, novels, and works of fiction or amusement, newspapers or periodicals, which form so large a part of the current literature of the day. The great object of a public library is to bring within the reach of the reader and student works which private collections do not, and cannot, contain, and which in no other way could be accessible to the public. Its excellence will depend—not upon the number of its volumes—but upon their intrinsic value, and I wish this principle to be carried out by the managers, who, I hope, will never be influenced by the too common ambition for mere numerical superiority.

"*Sixth.* I give and bequeath all my pictures, my private library, my manuscripts, copyrights, and papers, and also those of my father, Dr. Benjamin Rush (in my possession) to the Library Company, to be by them placed in a room in the new building, and there safely kept. The books may be used as the other books of the Library Company, but this room is not to be opened to gratify idle or objectless curiosity.

"*Seventh.* I will and direct that the building to be erected for the Philadelphia Library Company, under the provisions of my will, shall have a basement story, of a height not less than eight feet six inches above the level of the pavement at its front, leaving the height of such basement in the rear to depend upon the grade for the drainage of the lot. The entrance to the front of the story, immediately



'above the basement, shall be by a broad flight of stone
 "steps. Other entrances may be made in such places and
 "manner as convenience or necessity may require.

"*Eighth.* If the Philadelphia Library Company should
 "omit or decline to accept my residuary estate on the terms
 "and conditions in my will and codicils contained, or fail to
 "comply with any of the preliminary stipulations and direc-
 "tions therein mentioned, then I give and devise the whole
 "residue of my estate, real and personal, whatsoever and
 "wheresoever the same may be, after paying and securing
 "all annuities, bequests, legacies, and devises, other than
 "those to the said Library Company in this, or any future
 "codicil contained, unto HENRY J. WILLIAMS, my executor,
 "in my said will named, his heirs, executors, and adminis-
 "trators, in trust, therewith to found and endow a public
 "library entirely distinct from, and independent of, the
 "Philadelphia Library Company, to be named and called
 "the Ridgway Library, under the rules, regulations, condi-
 "tions, and stipulations in my said last will and the codicils
 "thereto expressed and contained. I wish that the greater
 "part of my estate may be spent in completing the new
 "library building. The annuities, as they expire and fall
 "into my residuary estate, will be amply sufficient for all
 "the legitimate purposes of a library.

"*Ninth.* By my last will and testament hereinbefore re-
 "ferred to (dated February 26, 1860), I have given, be-
 "queathed, and devised my whole estate, real and personal,
 "unto HENRY J. WILLIAMS, my executor, his heirs, execu-
 "tors, administrators, and assigns, in trust; in the first place
 "to provide for, pay, and comply with all legacies, gifts,
 "annuities, bequests, and devises, declarations and intentions
 "which may be contained or expressed in any codicil to the
 "said last mentioned will and testament, which I might
 "thereafter make, to be signed by me at the end thereof,
 "whether formally drawn or not; now, therefore, in pursu-
 "ance of the above provision, I hereby direct, declare, be-
 "queath, and devise as follows:—

* * * * *

"*Thirteenth.* I give and bequeath unto Miss Caroline Little and her sister, Mrs. S. H. Spruill, and to the survivor of them, an annuity or yearly sum of eighteen hundred dollars, to be paid to them and to the survivor of them so long as they or either of them shall continue unmarried; and if either of them should marry after my death, then the whole of the said annuity shall be paid to the other so long as she shall continue unmarried as aforesaid.

"*Fourteenth.* I give and bequeath unto Miss Mary Ritchie (the sister of Captain Ritchie, U. S. Navy), an annuity or yearly sum of one thousand dollars, to be paid to her half yearly, so long as she shall remain single and unmarried.

"*Fifteenth.* I give and bequeath unto each of my nephews and nieces, * * * Maria, S. Catharine, and Richard H. Rush, children of my brother, the late Richard Rush, an annuity or yearly sum of three hundred sixty dollars, to be paid half-yearly to each of my said nephews for and during their natural lives, and to each of my said nieces so long as they respectively shall continue single and unmarried, without any survivorship.

* * * * *

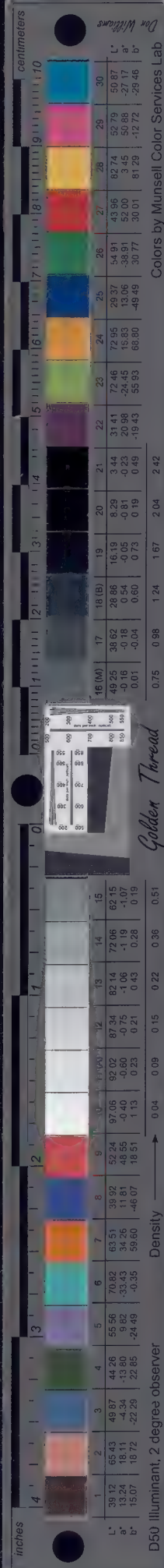
"*Eighteenth.* I give and bequeath unto my niece, Julia W. Biddle, wife of Colonel Alexander Biddle, of the city of Philadelphia, and daughter of my late brother, Samuel Rush, an annuity of eighteen hundred dollars, to be paid to her half-yearly so long as she shall continue the wife or the widow of her present husband.

* * * * *

"*Twenty-second.* I will and direct that all legacy or collateral inheritance taxes chargeable upon the bequests, legacies, and annuities given or bequeathed by my last will and testament, or by any codicil thereto, shall be paid from and out of my residuary estate."

By the second codicil it was, *inter alia*, provided—

"*First.* I have given and devised the greater part of my estate to my executor for the purpose of erecting for the Library Company of Philadelphia a building not only large enough to contain their present books, but also their



"probable increase for many years to come. Now, as I do
 "not desire that the Library Company shall have an income
 "greater than is required to provide for the legitimate (not
 "a competing) increase of the library and their current ex-
 "penses (not to be so large as to invite extravagance and
 "waste), for which purposes the sums to be set apart to se-
 "cure the legacies and annuities given by my said will and
 "testament will be sufficient, I hereby authorize and direct
 "my said executor to expend the whole remainder of my
 "estate in the purchase of a lot and the erection of the
 "library building, construction of book-cases, etc., leaving
 "the said company only an income sufficient to defray the
 "ordinary and strictly appropriate expenses of such an in-
 "stitution.

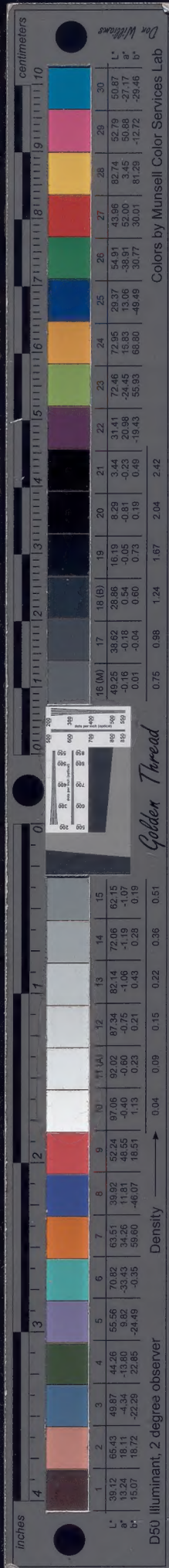
"I have observed that large annual incomes in corporate
 "bodies almost invariably lead to wasteful extravagance,
 "and cause the institutions to become the prey of schemers.
 "* * * * * As a condition, therefore, of my will, let the
 "managers and contributors join to exclude all such per-
 "sons from the direction of the Library Company.

* * * * *

"Third. I have given the copyrights of all my works to
 "the Library Company, and I will and direct that they shall,
 "for the next half century, publish every ten years (and
 "earlier and oftener if called for) an edition of five hundred
 "copies of any or of all of them, so that they shall always
 "have on hand a number sufficient to supply any demand
 "which may be made for any or either of them, at a price
 "not exceeding the cost of publication. I leave additions
 "and corrections in the printer's copies, preparatory to a
 "subsequent edition which I imperatively require to be
 "published exactly as they are left. The original parts of
 "them have been written *without assistance*, and I wish to
 "be alone responsible for all the faults of thought, division,
 "definition, and style, and of my corrected orthography, as
 "I consider it.

"Fourth. In order to insure as far as is in my power, the

"application of the various devises and bequests which I
 "have made for the use and benefit of the Library Company,
 "in accordance with my wishes and directions, I hereby de-
 "vise, direct, will, and declare that the whole and every part
 "of my estate, real and personal, given or devised for the
 "use and benefit of the said Library Company, and all the
 "books and furniture purchased by them with the income
 "and proceeds thereof, shall be taken and held by them
 "(whenever the same by the provisions of my will, or of
 "any codicil thereto, shall come into their possession, and
 "become subject to their control), as trustees, for the uses,
 "objects, trusts, and purposes in my said will, and any codi-
 "cil thereto mentioned and expressed; and if the said
 "Library Company shall in any respect violate or omit to
 "comply with any of the provisions, conditions, or direc-
 "tions, regulations, or restrictions, therein contained, then I
 "will and direct that the Pennsylvania Company for Insu-
 "rances on Lives and Granting Annuities, shall and may
 "(or, if they omit, neglect, or refuse so to do, any citizen of
 "the city of Philadelphia) apply to the proper courts of this
 "Commonwealth to compel the said Library Company to
 "comply with the provisions of my said will and codicils, or
 "to remove them from the said trusts, and transfer the whole
 "real and personal estate aforesaid, including the library
 "building, and all the books and furniture belonging to the
 "Ridgway Branch of the Philadelphia Library, unto the
 "said Pennsylvania Company for Insurances on Lives and
 "Granting Annuities, or if they shall neglect or refuse to
 "accept this trust, to some other trust company of the city
 "of Philadelphia, who shall take and hold the whole of the
 "said estates, real and personal, library building, books, and
 "furniture aforesaid, in trust to collect and receive the whole
 "income thereof, and apply the same to the uses, objects,
 "and purposes of my said will and codicils thereof; per-
 "mitting, however, if in their sole discretion they shall think
 "proper so to do, but not otherwise, the said Philadelphia
 "Library Company to occupy the library building, and to



"take charge of the books, etc., of the Ridgway Branch thereof; provided they shall do so under the absolute direction and control of the new trustees, who shall strictly supervise and entirely control and direct all the expenditures of my estate in relation thereto; and who may, at any time, remove them from the said charge, if the Library Company shall not submit and conform to such control and direction."

3. The complainant selected a lot bounded by Broad, Carpenter, Christian, and Thirteenth Streets in said city, and has erected thereon a building, in accordance with the directions and requirements of said will and codicil. Said building is now completed and ready for occupation.

On the 4th day of June, 1877, he notified the said "The Library Company of Philadelphia" that the said building was ready for their acceptance, and that his account as such executor and trustee was about to be filed.

He filed in the office of the Register of Wills for this County, his account as executor of said will, showing the receipts and disbursements by him, as such, and the payment of all testator's debts and legacies. This account has been vouched, and finally confirmed, by the Orphans' Court for said County. The balance thereof adjudicated to be in his hands, and the real estate still unsold, which is valuable, he is ready to transfer and convey, to whomsoever shall be entitled thereto under the said will.

4. The annuitants named therein, still alive, are Caroline Little, Mary Ritchie, Anne Maria Rush, Sarah Catherine Rush, Richard Henry Rush, and Julia W. Biddle. The residue of the estate of testator, still unconverted and undisposed of, consists substantially of realty only. It yields a net annual income, much in excess of the aggregate of the annuities. A conveyance to the person or corporation entitled thereto, if made subject to said annuities, will secure their payment.

5. Complainant is ignorant as to whether or not "The Library Company of Philadelphia" is willing to accept the

bequests and devises in its favor, by the said will made, upon the conditions thereby imposed; or even if it is willing so to accept, whether or not it has complied with all the preliminary conditions requisite to entitle it to receive a conveyance of said lot and building, and of said unexpended residuary estate.

6. Until these matters are finally and conclusively determined, the said building must remain unoccupied, to its great detriment, and the further discharge, by your orator, of his duty as such executor, will be rendered impossible.

Your orator therefore needs equitable relief as follows:—

I. A decree that the annuities given by said will, will be sufficiently secured and provided for, by a conveyance to the person or corporation entitled thereto, subject to their payment, of the unexpended estate of the testator; and that he shall make such assignment and conveyance to such person or corporation, so subject.

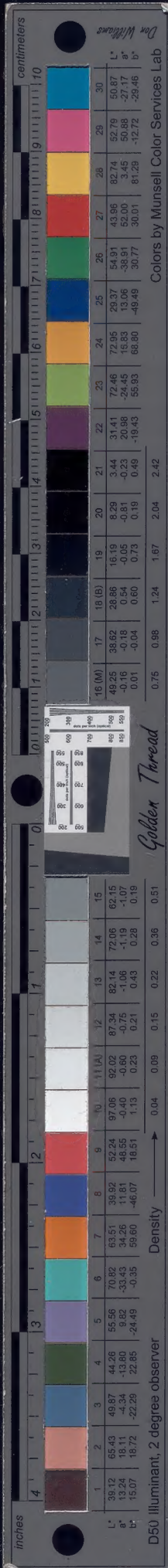
II. Discovery by "The Library Company of Philadelphia" as to whether it is, or is not, willing to accept the devises and bequests, in its favor, by said will made, upon the conditions thereby imposed.

III. Discovery by said Company as to what has been done by it, if it be willing so to accept, to entitle it to receive a transfer of said lot and buildings, and unexpended residuary estate.

IV. A decree determining whether said Company has or has not accepted the devises and bequests in its favor, by said will made; and further discovery, if it be decreed that it has so accepted, whether it has or has not complied with all the preliminary conditions requisite to entitle it to receive such transfer.

V. A decree determining whether "The Library Company of Philadelphia" is, or is not, entitled to receive such transfer and conveyance; and, further determining, if it be decreed to be thus entitled, in what manner, and upon what terms and conditions such transfer shall be made.

VI. And in case it should be decreed by the Court that



the said "The Library Company of Philadelphia" has refused to accept the trusts created by said will and codicil, or has failed to so qualify itself so to accept, that the duty incumbent upon the complainant shall be decreed.

VII. General relief.

JOHN G. JOHNSON,
GEORGE JUNKIN,
for complainant.

